LEGISLATIVE SERVICES AGENCY OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 7816 NOTE PREPARED: Feb 19, 2007 **BILL NUMBER:** HB 1459 **BILL AMENDED:** Feb 19, 2007

SUBJECT: Bias Crimes.

FIRST AUTHOR: Rep. Porter

BILL STATUS: CR Adopted - 1st House

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL IMPACT: State & Local

 $\overline{\underline{X}}$ DEDICATED FEDERAL

Summary of Legislation: (Amended) This bill has the following provisions:

Civil Action: The bill allows a person who suffers a personal injury or property damage caused by a criminal offense to bring a civil action to recover damages, including punitive damages, if the person who committed the offense knowingly or intentionally selected the victim because of the victim's color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex.

Aggravating Circumstance: The bill makes commission of a crime because of the color, creed, disability, national origin, race, religion, sexual orientation, gender identity, sex, or any other characteristic or belief of the victim an aggravating circumstance that may be considered by a judge when the judge imposes a sentence for the crime.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) Aggravating Circumstance: State expenditures would increase if an offender is incarcerated for a longer period of time. There are no data to indicate if offenders would receive a longer sentence if the court may consider that the offender knowingly and intentionally selected the crime victim or property of the crime victim because of the color, creed, disability, national origin, race, religion, sexual orientation, gender identity, sex or any other characteristic or belief of the victim. Ultimately, any increase in expenditures would depend on the actions of the offender and the sentencing decisions of the court.

(Revised) Background - Aggravating Circumstance: Depending upon mitigating and aggravating

HB 1459+ 1

circumstances, a Class A felony is punishable by a prison term ranging from 20 to 50 years; a Class B felony is punishable by a prison term ranging from 6 to 20 years; Class C felony is punishable by a prison term ranging from 2 to 8 years, and a Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139.

Explanation of State Revenues: Civil Action: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

<u>Explanation of Local Expenditures:</u> Aggravating Circumstance: Local expenditures would increase if an offender is incarcerated for a longer period of time in a local jail. Ultimately, any increase in expenditures would depend on the sentence imposed by the court.

Background - Aggravating Circumstance: A Class A misdemeanor is punishable by up to one year in jail; a Class B misdemeanor is punishable by up to 180 days in jail; and a Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: Civil Action: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee or the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, city and town courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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HB 1459+ 2